

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>9/4/18</u>
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

UNITED STATES OF AMERICA

-v.-

NG LAP SENG,

Defendant.

- - - - -x

APPLICATION FOR
ORDER PURSUANT TO
28 U.S.C. § 2044

S5 15 Cr. 706 (VSB)

GOVERNMENT'S APPLICATION FOR AN ORDER REGARDING
PAYMENT OF PENALTIES WITH BAIL MONEY
28 U.S.C. § 2044

The United States of America, through its counsel, hereby moves for an order directing the Clerk of the Court to remit, release, or return certain monies deposited by or on behalf of Ng Lap Seng, a/k/a "David Ng" (the "defendant") with the Court for bond purposes to

- (1) satisfy the defendant's payments of his outstanding
 - (i) mandatory special assessment, (iii) restitution judgment, plus applicable interest, and (iv) fine, plus applicable interest, and
 - (2) exonerate and return the remainder of funds to the defendant's counsel,
- all with the defendant's consent.

In support of its motion, the Government states the following:

On or about October 26, 2015, one of the defendant's counsel, Hugh H. Mo, Esq., caused \$20,000,000 (the "Bail Funds") to be wired

to the Clerk of Court to satisfy a portion of the conditions of release of the defendant pending trial in this matter.

To date, the Bail Funds remain on deposit (receipt number 465401137538), less that portion released to satisfy the defendant's forfeiture judgment, as described below.

On or about July 27, 2017, the defendant was convicted of all counts after trial.

On or about May 11, 2018, the defendant was sentenced to 48 months' imprisonment on each count, to run concurrently, was fined \$1,000,000, and was ordered to (i) pay a \$600 mandatory special assessment, (ii) forfeit \$1,500,000, and (iii) pay \$302,977.20 in restitution to the United Nations. (Docket Entry No. 783, at 7, 9; see also Docket Entry No. 777).

In the judgment of conviction, the Court ordered that the defendant pay interest on the restitution and fine, unless they were paid in full before the fifteenth date after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). (Docket Entry No. 783, at 7.) The Court also ordered that the defendant satisfy the order of restitution within two months. (*Id.* at 8.) The defendant has not yet paid his fine or restitution.

In an order filed on June 7, 2018, with consent of the defendant, the Court ordered that the Clerk of Court release \$1,500,000 of the

Bail Funds to satisfy the defendant's forfeiture judgment. (Docket Entry No. 776.) These funds were subsequently released.

The defendant has surrendered to commence service of his sentence.

The defendant's counsel has provided to the Government a supplemental engagement letter in which the defendant agreed in writing to the release of any of the Bail Funds, which might be subject to release, to Kirkland & Ellis LLP (which letter the Government understands the defendant's counsel will share with the Court upon request).

Title 28, United States Code, Section 2044 provides in pertinent part:

On motion of the United States attorney, the court shall order any money belonging to and deposited by or on behalf of the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution, or penalty imposed upon the defendant.

WHEREFORE, pursuant to Title 28, United States Code, Section 2044, and with consent of the defendant, through counsel, the United States respectfully moves this Court to issue the proposed order submitted with this application.

Dated: New York, New York
August 30, 2018

Respectfully submitted,

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Southern District of New York

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